



1638

TRANSMITTAL FORM

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Application Number 09/743,690

Filing Date January 12, 2001

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First Named Inventor Christopher

2002

Group Art Unit 1638

SEP 11 2002

Examiner Name Anne R. Kubelik

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Attorney Docket Number 020829-000100US

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 Response to Missing Parts/ Incomplete Application Response to Missing Parts under 37 CFR 1.52 or 1.53

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name Townsend and Townsend and Crew LLP
Carol A. Fang

Reg. No. 48,631

Signature

Date August 30, 2002

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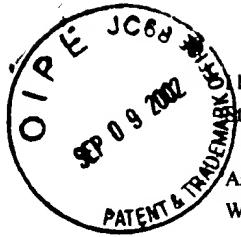
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TOWNSEND and TOWNSEND and CREW LLP

By: Patricia Ander

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHRISTELLER et al.

Application No.: 09/743,690

Filed: January 12, 2001

For: CHIMERIC POLYPEPTIDES
ALLOWING EXPRESSION OF PLANT-
NOXIOUS PROTEINS

Examiner: Anne R. Kubelik

Art Unit: 1638

AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed August 9, 2002, Applicants submit the following response.

I. Restriction of Claims

Applicants hereby elect with traverse the claims of Group III (claims 16-20, 22-23, 31, and 53-54), drawn to nucleic acids encoding a chimeric protein comprising a vacuolar targeting sequence and a plant noxious pest control protein, host cells and plants transformed with the nucleic acids, methods of using the nucleic acids to produce a pest resistant plant, and methods of making the chimeric protein.

In conjunction with the election of the claims of Group III, Applicants hereby select SEQ ID NO:6 as a nucleotide sequence and SEQ ID NO:7 as an amino acid sequence for the Group.

Att/B

Aug 16/02
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In making the restriction requirement, the Examiner alleges that Groups 1-VI do not relate to a single general inventive concept because they do not constitute an advance over the prior art and further alleges that claim 1 and other claims are not novel in view of Raikhel (U.S. Patent No. 5,360,726) or Boller *et al.* (U.S. Patent No. 6,054,637). Applicants respectfully disagree and reserve the right to pursue the argument at a later time.

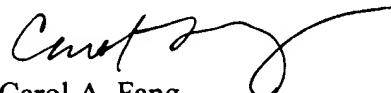
In view of the above, Applicants respectfully request withdrawal of the restriction requirement.

II. Election of Species

Applicants elect a species wherein the plant noxious pest control protein is avidin. Claims 16-20, 22-23, 31, and 53-54 read on the elected species. Applicants request that upon allowance of the claims, the Examiner consider rejoinder of withdrawn species if they are embraced by the allowed generic claims pursuant to MPEP § 809.03(c)(B).

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 576-0200.

Respectfully submitted,


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